

Italian Controlled Foreign Company Legislation: Publication of the 'Black List'

Paolo Troiano A.C.A., Dottore Commercialista, Studio Associato Consulenza Tributaria e Legale, Italy

With Law no. 342 of 21 November 2000, Italy has upgraded its arsenal of anti-avoidance provisions by introducing the so-called 'Controlled Foreign Company Legislation (CFC)', an anti-avoidance measure already in force in most industrialized countries.

The decision to introduce CFC legislation was driven by the need to counteract the use by Italian resident companies and individuals of offshore tax havens to shift taxable income, and thereby to comply with the OECD recommendations.¹

Notes

¹ OECD recommendation no. 1 of the *Harmful Tax Competition. An emerging global issue report* (Paris, 1998).

Technically, Law no. 342 inserted CFC legislation in Law no. 917 of 22 December 1986 (i.e. the Italian Tax Code), with Art. 127-*bis*.²

According to Art. 1, para. 2 of Law no. 342 and Art. 6 of the Ministry of Finance regulations,³ the CFC legislation will enter into force from the Italian taxpayer tax period following the publication in the Italian *Official Gazette* of the list of countries (the so-called 'black list') to which the CFC legislation will apply, as stated in para. 4 of Art. 127-*bis* of the Italian Tax Code.

The 'black list' has now been published⁴ therefore, for most taxpayers, CFC legislation will apply for the period starting 1 January 2002, and will concern income realized by the CFC for the accounting or management period started after 23 November 2001, the date of publication of the 'black list'.

The objective of the above anti-avoidance provision, called Controlled Foreign Companies, is to attract for taxation in Italy income which has been realized by 'business, companies or other entities', resident or based for tax purposes in one of the black-listed countries or companies there indicated, and controlled by an Italian resident, whether a company, an individual or a partnership.

Paragraph 2 of Art. 127-*bis* of the Italian Tax Code has been amended also to include within the application of CFC legislation, taxpayers listed under Art. 87, para. 1, letters (a), (b) and (c) of the Italian Tax Code, thus including Italian resident associations, public or private bodies, etc. Therefore, provided the following conditions are met, the income realized by the non-resident CFC will be subject to tax in Italy in the hands of the resident taxpayer, in proportion to the interest the latter directly or indirectly held at the end of the CFC accounting or management period:

- control, direct or indirect, by an Italian resident of

a non-Italian resident or based business, company or any other entity, (the so-called CFC); and

- residence for tax purposes of the non-Italian resident business, company or entity in a black-listed country.

This is irrespective of the fact that the non-resident CFC will distribute profits to the Italian resident. The CFC income will be subject to tax in the hands of the Italian resident for the tax period in place on the closing date of the CFC accounting or management period.

In other words, the CFC is substantially considered as a transparent partnership or as a permanent establishment of the Italian resident taxpayer; consequently, the business profits generated abroad are directly attributed to the Italian parent company and taxable as such.

The above rules also attract profits produced by a CFC through a permanent establishment located in one of the black listed countries, to the Italian tax net.

The scope of this article is to outline the features of Italian CFC legislation and its range of application.

1. The definition of 'business, company or other entity'

According to para. 1 of Art. 127-*bis* of the Italian Tax Code, CFC legislation will apply to 'business, companies and other entities'. The definition of a company and of a business can be found in the Italian Civil Code, under Arts. 2247 and 2082 respectively. The Art. 2247 definition of 'company' is as follows: 'with the Company Agreement, two or more individuals decide to contribute assets or services for the common exercise of a business activity in the view of sharing profits'. The Art. 2082 definition of 'entrepreneur' is: 'Entrepreneur is a

Notes

² Article 127-*bis*: '(1) If an Italian resident controls, directly or indirectly, even through a fiduciary arrangement or an intermediary, a business, company or other entity resident or located in States or territories with a privileged tax regime, the income earned by the non-resident shall be allocated to the Italian residents in proportion to their respective shareholdings, as of the closure of the accounting year or management period of the non-resident. These provisions shall also apply to controlling interest in a non-resident in respect of income deriving from their permanent establishments subject to the above privileged tax regimes.

(2) The provisions indicated under paragraph (1) shall apply to resident individuals and to the parties described under Article 5, and paragraphs (1)(a), (1)(b) and (1)(c) of Article 87.

(3) Article 2359 of the Civil Code, concerning controlled and affiliated companies, shall apply for the purposes of identifying the extent of control indicated in paragraph (1).

(4) Privileged tax regimes shall be considered those of the States or territories identified in the Decree of the Ministry of Finance, to be published in the *Official Gazette*, on the basis of their level of taxation, significantly lower than that applied in Italy, the lack of an adequate exchange of information, or other equivalent criteria.

(5) The provisions of paragraph (1) shall not be applicable if the Italian resident demonstrates that the company or other non-resident entity actually carries out an industrial or business activity as its principal activity in the State or territory in which it has its registered office; or if it demonstrates that the shareholdings do not result in the income being shifted in States or territories in which they are subject to the privileged tax regimes indicated in paragraph (4). For the purposes of this paragraph, the taxpayer shall contact the tax authorities beforehand, pursuant to Article 11 of Law no 212 of 27 August 2000 (the Taxpayer's Statute of Rights).

(6) The income of the non-resident, allocated in compliance with paragraph (1), shall be subject to separate taxation at the average rate applied to the overall income of the Italian resident and, however, at not less than a 27% rate. The income is calculated on the basis of the provisions set out under Chapter I, Heading VI and articles 95, 95-*bis*, 102, 103 and 103-*bis* (of the Italian Tax Code); the provisions indicated under Articles 54(4) and 67(3) do not apply. Taxes paid abroad may be deducted, pursuant to Article 15, from the tax calculated as described above.

(7) Profits distributed, in any form, by the non-resident indicated under paragraph (1) shall not be included in the income of the Italian resident, up to the amount of income subject to taxation, pursuant to paragraph (1), also in the previous financial periods. The taxes paid abroad, on profits that are not included in income pursuant to the first paragraph of this paragraph, may be deducted, pursuant to section 15, up to the amount of the taxes applied pursuant to paragraph 6, less the amounts that may be deducted in accordance with the third part of paragraph 6.

(8) The provisions putting this section into effect shall be established in a decree of the Ministry of Finance, to be issued in compliance with Article 17(3) of Law no 400 of 23 August 1988.

³ The Ministry of Finance regulations have been produced according to para. 8 of Art. 127-*bis*, and published in the *Official Gazette* of 23 November 2001.

⁴ *Official Gazette*, no. 273 of 23 November 2001.

person who runs professionally an organised business activity for the production or exchange of assets and/or services⁵. The definition of 'entity' is normally defined as a body corporate with or without legal personality. The definition of business, company or entity is vital to define the scope of CFC legislation and determine whether this anti-avoidance provision may apply, for example, to trusts and partnerships.

Most author opinion⁵ is that 'other entity' has been inserted to include within the scope of CFC legislation any body and non-body corporate, whether with or without legal personality, thus being comprehensive. In my opinion, it is questionable whether a trust would fall within the definition. In effect, a trust cannot be included in any juridical categories existing under a civil law system such as the Italian one, since a trust can have different forms and contents.

Some attempts to assimilate trusts to a body corporate existing under Italian law can be found in the Italy-USA Double Tax Treaty, where under Art. 3 it is affirmed that the word person: 'includes ... a commercial association (Trust)'. The Italian special tax investigation unit (i.e. Secit) has instead characterized a trust as one of the subjects listed under Art. 87 of the Italian Tax Code (i.e. companies and any other non-resident body).⁶ A trust cannot in fact come under the definition of business or company, and it may be questionable whether it could be covered by the word 'entity'.

2. The definition of control provided for by para. 1, Art. 127-bis of the Italian Tax Code

Under the first version of the CFC legislation, it was sufficient for an Italian resident to have a 25 per cent interest in a black-listed company for the anti-avoidance provision to apply.⁷ After debates, the final version has introduced the concept of 'control'.

According to Art. 2359 of the Italian Civil Code, a company may be regarded as controlling another party if it has more than 50 per cent voting rights, if it has sufficient voting rights to control – *de facto* – the shareholders meeting or if there is a very strong influence (e.g. due to commercial or contractual arrangements). The clarifications released by the Ministry of Finance⁸ have specified that both paras. 1 and 2 of Art. 2359 of the Civil Code will apply.

The definition of 'control', for CFC purposes, should therefore be understood both from a juridical viewpoint (i.e. more than 50 per cent voting rights), and a *de facto* viewpoint (e.g. contractual arrangements). In the case of individuals, relatives⁹ interest are also taken into account to determine if there is control.

Control can be direct or indirect, and also via trustees' arrangement. With regard to *de facto* control, Art. 4, para. 3 of the Ministry of Finance regulations specifies that the CFC will not apply if the taxpayer who has 'control' over the non-resident company, business or other entity has no rights to income. This is in order to counteract the criticism from most authors¹⁰ where possible problems, arising from a CFC legislation allocating taxable income to Italian resident taxpayers having no rights to the same, were indicated.

As explained above, control can be direct or indirect and, in the latter case, also via companies resident in non-black-listed countries. In the case of an Italian resident controlling a CFC via an Italian resident company or entity, the CFC income will be taxable in the hands of the latter.

With regard to the 'relevant date', control has to be ascertained, Article 1, para. 3 of the Ministry of Finance regulations indicated that this is the end of the CFC accounting or management period. The Ministry of Finance explained that the need to identify the relevant date with the end of the CFC accounting or management period is to be in line with the rules governing the taxation of Italian partnerships, where profits are allocated to the partners existing at the end of the partnership accounting period.

Article 3, para. 7 of the mentioned Ministry of Finance regulations, render the general anti-avoidance provision of Art. 37-bis, Law no. 600 of 29 September 1973 applicable to action taken by resident taxpayers in order to hide the control in the CFC or temporarily lose the same.¹¹

3. The so-called 'black list'

According to para. 4 of Art. 127-bis of the Italian Tax Code, CFC legislation will apply to the countries identified by Decree of the Ministry of Finance in consideration of the level of taxation consistently lower than that applied in Italy, the lack of exchange of information or other equivalent criteria.

Notes

⁵ Guglielmo Maisto, 'Provision in respect of Controlled Foreign Company legislation', *Rubrica di Diritto Internazionale* 2000; Alberto Trabucchi, *The Italian law proposal of the so-called CFC*; Marco M. di Pietralata, *Il Fisco* July 2000, p. 1963.

⁶ Statement of Practice no. 37/98, 11 May 1998.

⁷ Law proposal 4336, linked with the Finance Act for the year 2000.

⁸ Ministry of Finance regulations governing the applicability of the provisions provided for by Art. 127-bis of the Italian Tax Code released according to para. 8 of the same Article.

⁹ Wife; children; relatives up to the 3rd degree.

¹⁰ D. Busetto and Antonio Russo, 'Final Controlled Foreign Companies Legislation Enacted', *European Taxation* January 2001.

¹¹ According to Art. 37-bis, the Italian tax authorities can disallow the tax savings obtained through 'facts, acts or transactions' undertaken with no sound business purposes and aimed at circumventing the Italian tax system.

The black list published on 23 November 2001¹² has been divided into three parts; part 1 lists the so-called tax haven countries; part 2 lists, country by country, specific companies to which the CFC legislation will not apply; whilst under part 3, some specific entities which will fall within the scope of the CFC legislation are indicated, by country. Except for the Luxembourg 1929 holding, no EU companies have been included in the black list, even if there had been rumours that Madeira-exempt companies would have to fall within the provisions.

With regard to the countries included in the black list, it is unclear why countries such as Malaysia and Singapore have been inserted under part 1 and therefore banned as 'tax havens'. In effect, in these countries, there are only specific areas and/or some entities, which are entitled to a privileged tax regime.

It is unclear whether para. 2 of Art. 3 of the Decree containing the black list will give the Italian Tax Authorities the right to include within CFC legislation other companies or entities not specifically listed, but subject to a favourable tax regime, equivalent to those indicated under para. 1 of the same Art. 3.¹³

4. Determination of taxable income

The CFC income attributable to the Italian resident is calculated, with some exceptions, according to the

provisions of the Italian Tax Code¹⁴ for the calculation of business income. The taxable income determined will be subject to tax according to the average rate of the last two tax periods (the so-called *tassazione separata*). However, the tax rate cannot be lower than 27 per cent.

The taxable income determined by using the CFC accounting records in foreign currency will be converted into (Lire) Euro from 1 January 2002, according to the exchange rate in force on the date of closing of the CFC accounting period.

Tax paid by the CFC will be available as a credit, according to Art. 15 of the Italian Tax Code.

If the CFC is in a tax loss-making position, the tax losses will be available to carry forward and will be used to reduce the taxable income of the same CFC, according to the rules stated under the Italian Tax Code.¹⁵ According to the essay prepared for the Ministry of Finance, CFC tax losses will not be lost in the case of a transfer of ownership of the latter. This might not, however, be in line with the anti-avoidance provisions contained in the same Italian Tax Code where, provided certain other conditions are met, a transfer of ownership implies the non-availability of tax losses carry forward.

The possibility of using the accounting records held in the foreign country as a supporting documentation¹⁶ is of interest, even if the taxpayer will have to respond

Notes

¹² Decree of 21 November 2001: 'Identification of the States or territories that have a privileged tax regime pursuant to Article 127-bis, paragraph 4 of the Italian Tax Code (the "black list"). Article 1: For the purposes of the application of Article 127-bis of the Italian Tax Code, approved by Law no 917 of 22 December 1986, the following shall be considered States and territories having a privileged tax regime: Alderney (Channel Islands), Andorra, Anguilla, Aruba, the Bahamas, Barbados, Barbuda, Belize, Bermuda, the British Virgin Islands, Brunei, the Cayman Islands, the Cook Islands, Cyprus, Djibouti (previously Territory of the Afars and the Issas), French Polynesia, Gibraltar, Grenada, Guatemala, Guernsey (Channel Islands), Herm (Channel Islands), Hong Kong, the Isle of Man, Kiribati (previously the Gilbert Islands), Jersey (Channel Islands), Lebanon, Liberia, Liechtenstein, Macao, Malaysia, the Maldives Islands, the Marshall Islands, Montserrat, Nauru, the Netherlands Antilles, New Caledonia, Niue, Oman, the Philippines, Samoa, Sark (Channel Islands), the Seychelles, Singapore, the Solomon Islands, St Helena, St Kitts-Nevis, St Lucia, St Vincent and the Grenadines, Tonga, the Turks and Caicos Islands, Tuvalu (previously the Ellice Islands), Vanuatu, the Virgin Islands of the United States. Article 2: The States and territories indicated in Article 1 shall also include: 1) Bahrain, excluding companies that engage in oil exploration, extraction and refining; 2) the United Arab Emirates, excluding companies that operate in the oil and petrochemical sectors and are subject to taxation; 3) Kuwait, excluding companies in which foreign shareholders own: more than 47% of the company – if the company is subject to taxation at the rates set out in Amiri Decree no 3 of 1955; more than 45% of the company – if the company is subject to taxation at the rates set out in Local Law no 23 of 1961; on condition that such companies do not benefit from the tax relief provided for by Local Law no 12 of 1998 and Local Law no 8 of 2001; 4) Monaco, excluding companies that realise at least 25% of their turnover outside the Principality.

Article 3: The provisions set out in Article 1 shall apply to the following States and territories, only as regards the parties and activities indicated for each of them: 1) Angola, with reference to: oil companies that have obtained exemption from Oil Income Tax; companies that benefit from tax exemptions or reductions in important sectors of the Angolan economy; the investments indicated in the Foreign Investment Code. 2) Antigua, with reference to: international business companies carrying on their activities outside the territory of Antigua, such as those indicated in the International Business Corporation Act no 28 of 1982 and subsequent amendments and integrations; companies that produce authorised products, such as those indicated in the Local Law no 18/75 and subsequent amendments and integrations; 3) South Korea, with reference to: companies that benefit from relief under the Tax Incentives Limitation Law; 4) Costa Rica, with reference to: companies whose income derives from foreign sources; high-tech companies; 5) Dominque, with reference to: international companies engaging in activities overseas; 6) Ecuador, with reference to: companies operating in the Free Trade Zones that enjoy exemption from income tax; 7) Jamaica, with reference to: production export companies that enjoy the tax benefits granted under the Export Industry Encourage Act; companies situated in the territories identified by the Jamaica Export Free Zone Act; 8) Kenya, with reference to: companies located in the Export Processing Zones; 9) Luxembourg, with reference to: holding companies indicated in the Local Law of 31 July 1929; 10) Malta, with reference to: companies whose income derives from overseas sources, such as those indicated in the Malta Financial Services Centre Act, companies indicated in the Malta Merchant Shipping Act; companies indicated in the Malta Freeport Act; 11) Mauritius, with reference to: "certificate" companies that deal in export services, industrial development, tourism management, or industrial and hospital construction, and that are liable to reduced corporate tax; offshore companies; international companies; 12) Puerto Rico, with reference to: companies engaging in banking activities; companies covered by the Puerto Rico Tax Incentives Act of 1988 or the Puerto Rico Tourist Development Act of 1993; 13) Panama, with reference to: companies whose income derives from foreign sources, in accordance with Panamanian legislation; companies located in the Colon Free Zone; companies operating in the Export Processing Zones; 14) Switzerland, with reference to: companies not liable to cantonal and municipal taxes, such as holding, subsidiary and "domiciled" companies; 15) Uruguay, with reference to: companies engaging in banking activities; holdings that engage exclusively in offshore activities. (2) The provisions indicated under Article 1 shall also apply to parties and activities, located in the States indicated therein, which benefit from favourable tax regimes that are essentially analogous to that indicated in the same paragraph, under agreements or regulations of the tax authorities of those same States.

¹³ Assonime, Statement of Practice no. 52, 28 November 2001.

¹⁴ As a 'starting point', Art. 2, para. 2 of the Ministry of Finance regulations have stated that the accounting figures of the CFC period ended before the entry into force of CFC legislation will be considered valid if the same accounting rules as adopted in the previous periods are applied.

¹⁵ According to Art. 102 of the Italian Tax Code, tax losses can be carried forward for the following five tax periods.

¹⁶ This was a solution suggested by Assonime with Statement of Practice 65 of the year 2000 to avoid the keeping of two sets of books, one according to Italian accounting and tax law and one according to the rules in force in the CFC country.

(i.e. provide adequate clarification) within 30 days to the Italian Tax Authorities' request for additional information/clarification on the determination of the CFC taxable income.

In this respect, it is unclear how the Italian Tax Authorities will be able to check the correctness of the CFC accounting figures. In particular, it should be noted that since one of the criteria used to prepare the 'black list' was the lack of cooperation and exchange of information, it is therefore evident that the Italian Tax Authorities will be unable to obtain any 'third party' confirmation that the accounting figures of the CFC are correct.¹⁷

In order to avoid double taxation, it has been stated that in the case of a further distribution of dividends by the CFC, these will not be included in the Italian resident's taxable income for the amount already subject to tax.

5. Exclusion conditions

According to para. 5 of Art. 127-bis of the Italian Tax Code and the newly published regulations, CFC Legislation will not apply in cases where:

- the CFC mainly carries out a real commercial or industrial activity, as defined by Art. 2195 of the Italian Civil Code, in the state in which it is located;
- the Italian parent company can prove that the principal aim of the business structure is not to shift profits to a low tax jurisdiction.

The Italian Tax Authorities' regulations now specify that all commercial activities indicated in Art. 2195 of the Italian Civil Code can benefit from the exemption regime, thus including financial activities which initially appeared to be excluded.

It has now been specified that the exemption will apply in cases where the CFC has an adequate structure to carry out its principal business or perform activities which have a preparatory or auxiliary nature. Therefore, care will be given to the CFC structure in terms of employees, office space, fixed assets, etc. An additional criterion to be used in determining if the CFC exemption may apply concerns the income realized, in particular, whether at least 75 per cent of the same is realized in a non-black-listed country and, in the latter, is subject to ordinary corporate income tax. A black-listed resident company with a permanent establishment subject to tax in a non-black-listed country can also benefit from the exemption. However, it should be noted that to benefit from the non-application of the CFC provisions, the taxpayer will have to obtain an advance ruling from the Italian Tax

Authorities. A reply to the taxpayer ruling request has to be released within 120 days, 180 days if the structure is already in place.¹⁸

In the case of a non-reply by the Italian Tax Authorities, the taxpayer is entitled to consider his ruling as approved. With regard to the conservative approach of the Italian Tax Authorities, it will be interesting to see how they will consider ruling requests and the consideration that will be made if a reply is given.

6. Italian CFC legislation and double tax treaties

Italy has double tax treaties with a few black-listed countries such as Malaysia, Singapore, Cyprus and Switzerland. It is being debated whether CFC legislation is compatible with double tax treaties if this is not specifically provided for.¹⁹ According to other interpretations, CFC provision can apply even if double tax treaties do not contain specific provisions, because CFC legislation will affect the Italian resident status with no loss for the counterpart's treasury.

Due to the recent enter into force of CFC legislation in Italy the issue has not been yet object of discussion in details even if it is likely that this will happen in the near future.

7. Application of CFC legislation to trust arrangements

It is debatable whether the newly introduced CFC legislation applies to Italian resident beneficiaries or settlors of trusts located and/or resident in a black-listed country (i.e. 'offshore trust'). To start with, as previously explained, given the impossibility of assimilating a trust to one of the typical civil law entities, it may be questionable whether CFC legislation can apply at all. In addition, for the CFC legislation to apply, the Italian resident settlor and or beneficiaries should 'control' the offshore trust.

Having regard to the settlor's position, its rights towards the trust cannot be assimilated to a participation (i.e. shares, quotas, voting rights). In effect, the settlor, deprived of the assets transferred to the trust, has no legal status which is subject to protection and has no right to income distributions. Therefore, he can never be regarded as a 'controlling party'.

The beneficiaries are holders of an 'equitable right', the trustees having an equitable obligation only towards the same beneficiaries. As regards trust beneficiaries, they are only entitled to an equitable

Notes

¹⁷ E. D'innella and S. Saponaro, 'Tax haven and the new anti avoidance provisions', *Il Fisco* October 2000, p. 2814; A. Iorio, *Il Sole 24 Ore*, 25 November 2001, p. 13.

¹⁸ Art. 5, para. 1, of the Ministry of Finance regulations.

¹⁹ Contra: Court of Poitiers, 25 February 1999 and Court of Strasburg 12 December 1996.

right with regard to the assets, and the income arising therefrom, transferred by the settlor to the trust and now under the trustee's control.

With regard to the meaning and typical features of shares and/or quotas according to the Italian Civil Code (right to income, voting rights, participation to the capital, transferability, etc.), as well as the meaning of the expression 'voting rights', to be considered as the power of 'direction', it is my opinion that also the beneficiaries' rights towards the trust do not fall within the definition of shares, quotas or voting rights.

In addition, in particular, in the case of a discretionary trust, we cannot say that the trust beneficiaries have a 'right', understood as the possibility of obtaining the same in a court, to the distribution of income or reserves arising with the trust. The trustee will exercise his discretion when deciding if, and in which amount, to assign income or capital to the beneficiaries. We can therefore conclude that a beneficiary of a discretionary trust has a right towards the trust income that is not yet acquired but is in formation, which may also never crystallize.

With regard to the incomes arising with the trust, the beneficiaries do not have a juridical situation identifiable in terms of a free availability of the trust income or capital.²⁰ This consideration is valid both for discretionary trusts and for fixed trusts.²¹

In conclusion, I also believe that the beneficiaries of a trust, in particular if it is 'discretionary', cannot be regarded as controlling the same; in addition, we may also argue that, according to Art. 4, para. 3, of the Ministry of Finance regulations, they do not have the right to 'distributions'. Therefore, we may maintain

that CFC legislation cannot apply to an offshore trust with Italian resident settlor and/or beneficiaries. This should however be looked at on a case-by-case basis, also concerning the real powers and rights of all the parties involved (i.e. settlor; protector; beneficiaries) and the form of the trust (e.g. revocable versus irrevocable; discretionary versus fixed).

7. Conclusions

The introduction of CFC legislation will provide the Italian tax authorities with an effective weapon, from a legal viewpoint, for counteracting certain schemes involving the use of offshore havens. However, we should not forget that apart from multinationals and listed companies, which are obliged to have a certain degree of disclosure, Italian resident taxpayers, whether individuals or companies, are – were – not accustomed to report the ownership of offshore based companies or entities. Therefore, I believe CFC legislation will not be, in practice, effective when certain schemes were – are – based more on a non-disclosure principle than on legal arguments.

With regard to possible planning ideas, I believe that the use of offshore discretionary trusts, with, say Italian resident beneficiaries, may avoid the application of CFC legislation for the reasons previously indicated.

As an additional planning idea, I wonder 'when' the CFC income will be attributed to the Italian resident in the case of the CFC accounting and management period ending on, say, 31 December 2050 ...²²

Notes

²⁰ F. Tesauro, UTET 1994 – Tax law cases.

²¹ M. Lupoi, *Trusts* (Milan, 1997).

²² According to para. 1 of Art. 127, the income realized by the CFC is allocated to the Italian controlling party as at the closure of the CFC accounting year or management period.